

**Chapter 8**

**BUSINESS REGULATIONS**

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**Article 8-1**

**BUSINESS LICENSE**

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**Section 8-1-1 License Required**

- A. It is unlawful for any person, whether as principal or agent, either for himself or for another person, or for any corporation, or as a member of any firm or copartnership, to commence, practice, transact or carry on any trade, calling, profession, occupation or business within the town limits without first having procured a license from the town to do so and without complying with all regulations of such trade, calling, profession, occupation or business as specified or required by the United States Government or the State of Arizona and its political subdivisions. No license shall be issued without proof by the applicant of such compliance and verification by the clerk that no violation of the town's zoning regulations will occur by such issuance.
- B. The practicing or carrying on of any trade, calling, profession, occupation or business by any person, corporation or partnership without first having procured a license from the town to do so, or without complying with any and all regulations of such trade, calling, profession, occupation or business, as required by other law or by this article shall constitute a separate violation of this article for each and every day that such trade, calling, profession, occupation or business is practiced, carried on or conducted within the town.
- C. The only exceptions to the licensing requirements of this section shall be:
1. Non-profit educational institutions, fraternal and service clubs, bona fide religious organizations, and agencies of any federal, state or local governments.
  2. Non-profit private clubs where a basic membership fee covers the cost of the use of facilities.
  3. Fund raising projects of non-profit and bona fide religious organizations, not conducted on a regular basis.
  4. Special event permits issued at the direction of the council upon application by the organizers sponsoring the event.

**Section 8-1-2                      Application and Issuance**

- A.     It shall be the duty of the clerk upon receipt of a properly completed application for a business license and verification of the data contained thereon, to prepare and issue a license under this article for every person, corporation or partnership required to pay a license fee hereunder and to state in each license the amount charged for the same, the period of time covered thereby, the name of the person, corporation or partnership for whom issued and the trade, calling, profession, occupation or business licensed and the location or place of business where the trade, calling, profession, occupation or business is to be carried on, transacted or practiced.
- B.     In no case, shall any mistake made by the clerk in issuing any license or collecting the amount of fee for any license or the amount actually due from any person required to pay for a license as provided herein, prevent, prejudice or stop the town from collecting the correct amount of fee or charge for any license or the amount actually due from any person required to pay for a license as provided herein, or revoking any license erroneously issued and refunding the fee collected.
- C.     No greater or lesser amount of money shall be charged or received by the clerk for any license than is provided for in this article, and no license shall be issued for any period of time other than as provided herein.
- D.     All charges for a license required by this article shall be paid in advance and in lawful money of the United States of America at the office of the clerk.

**Section 8-1-3                      Term of Licenses**

- A.     The renewal charge for annual licenses provided herein shall become due and payable on the anniversary date of the issuance of the license and every anniversary date thereafter, except that any new license charge shall become due and payable and be paid on or before the day of commencing to carry on, transact or practice the trade, calling, profession, occupation or business for which a license is required by this article.
- B.     The charge for quarterly licenses provided herein shall become due on the first day of each calendar quarter, for which required.
- C.     The charge for weekly licenses provided for in this article shall become due and payable and be paid on or before the first day of each week for which required.
- D.     The charge for daily licenses required by this article shall become due and payable and be paid before each day for which required.

**Section 8-1-4                      Number of Licenses**

- A.     A separate charge for a license shall be paid for each branch establishment or separate place of business in which any person, corporation or partnership shall carry on, transact or practice a trade, calling, profession, occupation or business.
- B.     When more than one trade, calling, profession, occupation or business is carried on, transacted or practiced by the same person, corporation or partnership at one fixed place of business, only one

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license shall be required and the charge for such license shall be the highest charge applicable to any of the activities, and all activities shall be listed on the license issued.

- C. When more than one trade, calling, profession, occupation or business shall be carried on, transacted or practiced by the same person, corporation or partnership without any fixed place of business, a separate license shall be required and a separate appropriate charge be paid for each activity for which a license is required by this article.

### **Section 8-1-5 License to be Exhibited**

- A. Each person, corporation or partnership having a license and having a fixed place of business shall keep said license, while in force, at some conspicuous place or location within the place of business.
- B. Each person, corporation or partnership having a license and having no fixed place of business shall carry such license with him at all times, while engaged in any activity for which the license was issued, except that a person acting for any such corporation, firm or company and not being the only person acting for such corporation, firm or company may carry with him a copy of the license which has been issued by the clerk and plainly marked or stamped "Duplicate".
- C. Each person, corporation or partnership having a license shall produce and exhibit the same whenever requested to do so by any designated officer of the town or by the clerk.

### **Section 8-1-6 Inspector of Licenses**

- A. The clerk shall be inspector of licenses and may appoint, with approval of the manager, such assistant inspectors as may be required to enforce these regulations.
- B. Each assistant inspector of licenses, immediately upon the facts coming to his knowledge, shall report to the clerk the name of any person, corporation or partnership carrying on, transacting or practicing any trade, calling, profession or business within the town without first having obtained a license as required by this article.

### **Section 8-1-7 Duties and Powers of Inspectors**

- A. The inspector of licenses and the assistant inspectors, each in the discharge and performance of his duties, shall have and exercise the following powers:
  - 1. To file a complaint for any violation of the provisions of this chapter with the town magistrate.
  - 2. To enter, free of charge and at any reasonable time, any place of business for which a license is required by this article and to demand exhibition of the license for the current period of time from any person, corporation or partnership engaged in carrying on, transacting or practicing any trade, calling, profession, occupation or business at such place of business and, if such person, corporation or partnership shall fail then and there to exhibit such license, such person, corporation or partnership shall be liable to the penalties provided for violation

of this article.

- B. When the charge for any license required hereunder shall remain unpaid for ten days from and after the due date, such charge shall be delinquent and the clerk, on the day upon which said charge becomes delinquent, shall add thereto an amount equal to twenty-five percent of said charge as a penalty and no receipt or license shall be issued thereafter by the clerk until the charge and penalty shall be paid in full.

#### **Section 8-1-8                      Transfer of License**

No license issued under the provisions of this article shall be assigned or transferred to any other person, corporation or partnership without first obtaining permission from the town.

#### **Section 8-1-9                      Prorating Prohibited**

No license fee herein provided shall be prorated, except that annual licenses issued after the first of December shall be valid for all of the subsequent year and shall reflect an appropriate expiration date.

#### **Section 8-1-10                    Business License Fees**

The Town shall charge fees for the issuance or renewal of any business licenses under this Chapter in such amounts as approved by the Council by resolution or as part of the Town's annual budget.  
(09-08, Amended, 07/02/2009)

#### **Section 8-1-11                   Restrictions; Suspension; Revocation**

Licenses issued under the provisions of this chapter may be restricted, suspended or revoked by the town clerk, after notice and an opportunity for a hearing, for any of the following causes:

- A. Fraud, misrepresentation or false statement contained in the application for license.
- B. Fraud, misrepresentation or false statement made in the course of carrying on the business.
- C. Any violation of this chapter.
- D. Conviction of any crime or misdemeanor involving moral turpitude.
- E. Conducting business in violation of any town ordinance, county ordinance or state law relating to the public health, safety and welfare.

#### **Section 8-1-12                   Appeals**

- A. Notice of the hearing for restrictions, suspension or revocation of a license shall be given in writing, by the town clerk, setting forth specifically the grounds for the restrictions, suspension or

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revocation and the time and place of the hearing. Such notice shall be mailed to the licensee at the address listed on the business license application at least ten days prior to the date set for the hearing. The mailing of such notice shall constitute proper notice to the licensee.

- B. Any person aggrieved by the denial of an application for license or by the restrictions placed upon the license or by the suspension or revocation of such license shall have the right of appeal to the council. Such appeal shall be taken by filing with the town clerk, within fourteen days after such denial, restriction, suspension or revocation, a written statement setting forth fully the grounds for the appeal. The council shall set a time and a place for hearing of such appeal, and notice of such hearing shall be given to the appellant in the same manner as provided for notice of a hearing on suspension or revocation. The decision and order of the council on such appeal shall be final.

## Article 8-2

### PEDDLERS, CANVASSERS, SOLICITORS AND TRANSIENT MERCHANTS

#### Sections:

8-2-1	License Required
8-2-2	Definitions
8-2-3	Exemptions from Article
8-2-4	Application for License and Permit
8-2-5	Investigation of Applicant for License and Permit; Issuance and Contents of License
8-2-6	Solicitation By Charitable, Religious, Patriotic or Philanthropic Organizations
8-2-7	Posting of License; Issuance of Identification Cards
8-2-8	Location For Transaction of Business Regulated
8-2-9	Creation of Undue Noise Prohibited
8-2-10	Enforcement of Article; Record of Licenses Issued and Violations Reported
8-2-11	Revocation of License and Permit
8-2-12	Appeal From Denial or Revocation of License
8-2-13	Peddling, etc., on Posted Premises or Refusal to Leave Premises Upon Request Prohibited

#### Section 8-2-1 License Required

Subject to the provisions of A.R.S. § 3-563, it is unlawful for any peddler, solicitor, canvasser, transient merchant or itinerant vendor, as the same are defined in this chapter, to engage in such business within the corporate limits of the town without first obtaining a license therefore in compliance with the provisions of this chapter.

#### Section 8-2-2 Definitions

In this chapter, unless the context otherwise requires:

- A. "Canvasser or solicitor" means any person, corporate or individual, or firm, whether resident of the town or not, who travels, or whose agents travel, either by foot, wagon, automobile, motor truck or any other type of conveyance, from place to place, from house to house, from street to street or business to business, taking or attempting to take orders for sale of goods, wares and merchandise, edible foodstuffs, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether collecting advance payments on such sales or not; provided that such definition shall include any person or firm who, for himself or itself, or for another person or firm, hires, leases, uses or occupies any building, structure, tent, railroad boxcar, boat, hotel room, lodging house, apartment, shop or any other place within the town for the sole purpose of exhibiting samples and taking orders for future delivery.
- B. "Peddler" means any person, individual or corporate, or firm, whether a resident of the town or not, who travels, or whose agents travel, by foot, wagon, automobile or any other type of conveyance, from place to place, from house to house, from street to street or business to business, carrying, conveying or transporting goods, wares, merchandise, edible foodstuffs or provisions, offering and exposing the same for sale or making sales and delivering articles to purchasers or who, without traveling from place to place, shall sell or offer the same from a

wagon, automotive vehicle, railroad car or other conveyance, and further provided, that persons or firms who solicit orders and as a separate transaction make delivery to purchasers as a part of the scheme of design to evade the provisions herein contained shall be deemed a peddler subject to the provisions herein contained. The word "peddler" shall include the words "hawker" and "huckster".

- C. "Transient merchant", "itinerant merchant" or "itinerant vendor" means any person, corporate or individual, or firm, whether owner or otherwise, whether a resident of the town or not, who engages, or whose agents engage, in a temporary business of selling and delivering goods, wares, merchandise, edible foodstuffs or provisions, within the town, and who in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, tent, railroad boxcar, boat, public room in a hotel, lodging house, apartment, shop, or any street, alley or other place within the town for the exhibition and sale of such goods, wares, merchandise and edible foodstuffs, either privately or at public auction. The person or firm so engaged shall not be relieved from complying with the provisions of this chapter merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer or by conducting such transient business in connection with, as a part of, or in the name of any such local dealer, trader, merchant or auctioneer.

#### **Section 8-2-3 Exemptions from Article**

The terms of this article do not include the acts of persons selling personal property at wholesale to dealers in such articles, nor to newsboys, students on school class projects, nor to acts of merchants or their employees in delivering goods in the regular course of business. Nothing contained in this article prohibits any sale required by statute or by order of any court or prevents any person from conducting a bona fide auction sale pursuant to law.

#### **Section 8-2-4 Application for License and Permit**

- A. Individual Applicants. Individual applicants for the permit and license under this article must comply with the licensing requirements of Article 8-1 as well as this article. An applicant shall supply the following to the town clerk in addition to the information required by Article 8-1:
1. Name and description of the applicant; date of birth; social security number.
  2. Address (legal and local); state sales tax number.
  3. A brief description of the nature of the business and the goods to be sold.
  4. If employed, the name and address of the employer, together with evidence establishing the exact relationship.
  5. The length of time for which the right to do business is desired.
  6. If a vehicle is to be used, a description of the same, together with license number or other means of identification.
  7. A photograph of the applicant taken within sixty days immediately prior to the date of filing



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of the application, which picture shall be two inches by two inches, showing the head and shoulders of the applicant in a clear and distinguishing manner.

8. The names of at least two reliable property owners of the town who will certify as to the applicant's good character and business responsibility, or, in lieu of the names of references, any other available evidence as to the good character and business responsibility of the applicant.
  9. A statement as to whether or not the applicant has been convicted of any crime, misdemeanor (except minor traffic violations) or violation of any municipal laws, the nature of the offense and the punishment or penalty assessed therefore.
  10. Applicants proposing to sell edible foodstuffs shall file with the application a statement by a reputable physician of the town, dated not more than ten days prior to the submission of the application, certifying the applicant to be free of infectious, contagious or communicable disease or, in lieu thereof, a Maricopa County health card.
  11. At the time of filing the application, a fee, in such amount as approved by the Council by resolution or as part of the Town's annual budget, shall be paid to the clerk to cover the costs of the investigation.
- B. Corporate or Firm Applicants. Corporate or firm applicants must furnish the following information upon duplicate applications sworn to by an appropriate officer of the firm or corporation authorized so to do:
1. Name of applicant; date of birth; social security number.
  2. Address (legal and local); state sales tax number.
  3. A brief description of the nature of the business and the goods, etc., to be sold.
  4. The length of time for which the right to do business is desired.
  5. If vehicles are to be used, the quantity and description of same, together with the license numbers or other means of identification.
  6. A list of all of the agents or representatives who will be operating within the town, including their addresses. In this connection, such firm or corporation shall furnish at the time of application the following information and material pertaining to such representatives or agents:
    - a. A photograph of each agent or representative taken within sixty days immediately prior to the date of the filing of the application, which picture shall be two inches by two inches, showing the head and shoulders of the agent or representative in a clear and distinguishing manner.
    - b. The names of at least two reliable property owners of the town who will certify as to each person's good character and business responsibility or, in lieu of the names of references, any other available evidence as to the good character and business responsibility of the agents or representatives concerned.

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- c. A statement as to whether each agent or representative has been convicted of any crime, misdemeanor (except minor traffic violations) or violation of any municipal laws, the nature of the offense and the punishment or penalty assessed therefore.
  - d. A statement by a reputable physician of the town, dated not more than ten days prior to the submission of the application, certifying the applicant to be free of infectious, contagious or communicable disease or, in lieu thereof, a health certificate or card issued by Maricopa County.
  - e. A fee per agent or representative, in such amount as approved by the Council by resolution or as part of the Town's annual budget, shall be paid to the clerk to cover the cost of investigation.
- C. No license issued hereunder shall be transferable, but corporate or firm licensees may change, substitute or alter the list of their agents or representatives furnished to the clerk at any time; provided, however, that for each newly named agent or representative on such list, the information and material required in subsection B, paragraph 6 of this section shall be furnished therewith.
- (09-08, Amended, 07/02/2009)

### **Section 8-2-5                      Investigation of Applicant for License and Permit; Issuance and Contents of License**

Upon receipt of such application, the clerk shall cause such investigation of such person's business responsibility or moral character to be made as he deems necessary to the protection of the public good. No license shall be issued until ten working days have passed or completion of the required investigation, whichever is the longer. If, as a result of such investigation, the applicant's or his agents' or representatives' business responsibility and character are found to be unsatisfactory, the application shall be denied. If, as a result of the investigation, the character and business reputation appear to be satisfactory, the clerk shall so certify in writing, and a license shall be issued by the clerk. The clerk shall keep a full record of all licenses issued. Such license shall contain the number of the license, the date the same is issued, the nature of the business authorized to be carried on, the amount of the license fee paid, the expiration date of such license, the place where such business may be carried on under such license and the name of the person authorized to carry on the same.

### **Section 8-2-6                      Solicitation By Charitable, Religious, Patriotic or Philanthropic Organizations**

- A. Any organization, society, association or corporation desiring to solicit or have solicited in its name money, donations of money or property or financial assistance of any kind or desiring to sell or distribute any item of literature or merchandise to persons other than members of such organization upon the streets, in office or business buildings, by house-to-house canvass or in public places for a charitable, religious, patriotic or philanthropic purpose exclusively shall be exempt from the provisions of Sections 8-2-1, 8-2-3, and 8-2-10 of this article; provided, there is filed a sworn application in writing on a form to be furnished by the town clerk which shall give the following information:
- 1. Name and purpose of the cause for which the permit is sought.

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2. Names and addresses of the officers and directors of the organization.
  3. Period during which the solicitation is to be carried on.
  4. Whether or not any commission, fees, wages or emoluments are to be expended in connection with such solicitation and the amount thereof.
- B. Upon being satisfied that such organization, association or corporation is a religious, charitable, patriotic or philanthropic organization, the clerk shall issue a permit without charge to such organization, association or corporation to solicit in the town. Such organization, association or corporation shall furnish all of its members, agents or representatives conducting solicitations identification cards stating the name of the organization, name of agent and purpose of solicitation which must be displayed upon demand.

### **Section 8-2-7                      Posting of License; Issuance of Identification Cards**

The license issued to the individual or corporate licensees hereunder shall be posted in a conspicuous place if such licensees are using a vehicle or building. The clerk shall issue an identification card to each individual licensee having upon it the pertinent information contained in such license. Agents and representatives of corporate and firm applicants shall be issued similar identification cards. All such cards shall be shown upon request.

### **Section 8-2-8                      Location For Transaction of Business Regulated**

No licensee hereunder shall have any exclusive right to any location in the public street, nor shall any licensee be permitted a stationary location, nor shall he transact business within three hundred feet of a public school ground, nor shall he be permitted to operate in any congested area where his operations might impede or inconvenience the public. For the purpose of this article, the judgment of the clerk or his representative, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.

### **Section 8-2-9                      Creation of Undue Noise Prohibited**

No licensee nor any person in his behalf shall shout, make any outcry, blow a horn, ring a bell or use any sound device, including any loud-speaking radio or sound-amplifying system, upon any of the streets, alleys, parks or other public places of the town or upon any private premises in the town where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the public thoroughfares for the purpose of attracting attention to any goods, wares or merchandise which such licensee proposes to sell.

### **Section 8-2-10                    Enforcement of Article; Record of Licenses Issued and Violations Reported**

It shall be the duty of the law enforcement agency of the town to enforce this article. The law enforcement agent shall report to the clerk all convictions for violation of this article, and the clerk shall maintain a record for each license issued and record the reports of violations therein.

**Section 8-2-11                    Revocation of License and Permit**

Permits and licenses issued under the provisions of this article may be revoked by the clerk after notice and hearing, as provided in Article 8-1 of this code, for any of the following causes:

- A.      Fraud, misrepresentation or false statement contained in the application for license.
- B.      Fraud, misrepresentation or false statement made in the course of carrying on his business.
- C.      Any violation of this chapter.
- D.      Conviction of any crime or misdemeanor involving moral turpitude.
- E.      Conducting business in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

**Section 8-2-12                    Appeal From Denial or Revocation of License**

An appeal from denial or revocation of license shall be controlled by the provisions of Article 8-1 of this chapter, pertaining to appeal regarding business licenses.

**Section 8-2-13                    Peddling, etc., on Posted Premises or Refusal to Leave Premises Upon Request Prohibited**

It is unlawful for any peddler, solicitor, canvasser or transient merchant, their agents or representatives, to come upon any premises whereon a sign bearing the words "no peddlers" or "no canvassers" or "no solicitors" or any combination of such terms or terms similar thereto is exposed to public view or to remain on any premises after having been requested to leave by the owner or occupant thereof whether such premises are posted as specified above or not.

## Article 8-3

### SPECIAL EVENTS

#### Sections:

<b>8-3-1</b>	<b>Purpose and Intent</b>
<b>8-3-2</b>	<b>Definitions</b>
<b>8-3-3</b>	<b>Permit Required</b>
<b>8-3-4</b>	<b>Exemptions</b>
<b>8-3-5</b>	<b>Applications</b>
<b>8-3-6</b>	<b>Fees and Deposits</b>
<b>8-3-7</b>	<b>Criteria for review and approval</b>
<b>8-3-8</b>	<b>Event calendar</b>

#### **Section 8-3-1 Purpose and Intent**

It is acknowledged by the Town Council that special events potentially enhance the lifestyle of the citizens of Fountain Hills and create unique venues for expression, entertainment, and business that are not otherwise provided within the framework of the Town Code. The purpose of Article 8-3 is to establish an administrative process for permitting and regulating certain temporary activities conducted on public property or private property when public safety is impacted. This Article is intended to provide fair and reasonable regulations governing the time, place, and manner in which a special event may take place, and in doing so, protect the health, safety and welfare of the public.

(Ordinance 11-13, Amended, 11/03/2011, Deleted and Replaced; Ordinance 01-09, Added, 05/17/2001, Adopted)

#### **Section 8-3-2 Definitions**

In this article, unless the context otherwise requires:

- A. “Block party” means the closure of a short cul-de-sac or a limited-portion of a two-lane local roadway for a period of less than six hours for the purpose of a neighborhood gathering.
- B. “Charitable nonprofit organization” means any person(s), partnership, association, corporation or other group or entity that is exempt from federal taxation and whose activities are conducted for unselfish, civic or humanitarian motives, or for the benefit of others, and not for political or commercial gain of any private individual or group, and may include, but shall not be limited to patriotic, philanthropic, social service, welfare, benevolent, educational, civic, fraternal, cultural, charitable, scientific, historical, church, athletic or medical activities.
- C. “Farmer’s market”, “bazaar days”, “market days”, “sidewalk sale”, etc. means any outside retail activity on public property or on private property in a commercially zoned district that is temporarily extended beyond the permanent venue/site of day-to-day business.
- D. “Grand-fathered event” means an event that has annually occurred in the community for a period exceeding ten consecutive years and continues to provide a significant benefit to local organizations, clubs, associations, community groups and the community as a whole.
- E. “Holiday event” means an event that is related to a recognized holiday or seasonal event and

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includes the Thanksgiving Day Parade, the Sunrise Easter Service at Fountain Park, the July 4th celebration at Fountain Park, and the Holiday Lighting activities on the Avenue of the Fountains.

- F. "Special event" means any event that will take place on Town property, including but not limited to parks, open space, streets, sidewalks or rights-of-way, or on private property, and which by its nature could cause a significant disruption of pedestrians or vehicular traffic in the area and that requires traffic safety measures. An event is not a "special event" for the purposes of this article if all of the following are true: (1) the event takes place on private property, (2) the event does not require the closure of any Town street, sidewalk or right-of-way, and (3) the event does not require any municipal services beyond the currently existing, permanent, in-ground infrastructure.
- G. "Special Event Committee" means the group of Town staff members designated by the Town Manager that is charged with (1) reviewing special event applications for compliance with the Town Code and (2) recommending special events for approval by the Town Manager. The Special Event Committee shall consist of, but not be limited to, at least one representative from all of the following departments: Administration Department, Community Services Department, Development Services Department, Fire Department and Law Enforcement.
- H. "Sponsor" means the applicant, organizer, operator or principal agent who is responsible for all aspects of the event's planning, implementation and conduct.

(Ordinance 11-13, Amended, 11/03/2011, Deleted and replaced; Ordinance 01-09, Added, 05/17/2001)

### **Section 8-3-3 Permit Required**

No person or entity shall engage in, participate in, aid, form or start any special event as defined in this article without first obtaining a special event permit issued by the Town. Failure to comply with this requirement will constitute a violation of Town Code.

(Ordinance 11-13, Amended, 11/03/2011, Deleted and replaced; Ordinance 01-09, Added, 05/17/2001, Adopted)

### **Section 8-3-4 Exemptions**

The only exemptions to the special event permitting requirements of this article shall be:

- A. "Block parties" as defined in Section 8-3-2 of this article. Block party events are exempt from the special event process but do require the administrative approval of a right-of-way encroachment permit from the Town.
- B. "Farmer's market", "bazaar days", "market days", "sidewalk sale", as defined in Section 8-3-2 of this article. Said activity requires the application and issuance of a temporary use permit from the Development Services Department pursuant to the Town's Zoning Ordinance, Section 5.16.
- C. Garage Sales, including carport and yard sales, so long as such sales are (1) carried on wholly within the property lines on which the dwelling unit is located, (2) held for the purpose of selling items that are primarily surplus to the residential use, (3) operated for not more than three consecutive days and held not more than four times within a calendar year at the same dwelling unit, (4) limited to the hours between 7:00 a.m. and 5:00 p.m. and (5) advertised using signage in conformance with the sign regulations as designated in Chapter 6 of the Zoning Ordinance for the

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- D. Construction activity within the public rights-of-way that has encroachment permits approved and issued by the Development Services Department.
- E. Holiday sales that are related to a state or nationally recognized holiday or seasonal event such as Christmas tree or pumpkin sales. Holiday sales must be set up and conducted in one location and obtain a temporary use permit through the Development Services Department.
- F. Fund-raising events held by charitable nonprofit organizations that meet the following criteria:
  - 1. The fund-raising event shall be carried on entirely within a building, or if outdoors, entirely within a clearly defined/designated piece of public or private property. If the fund-raising event involves outdoor activity, such activity shall be limited to six outdoor events per year per organization.
  - 2. All proceeds derived from the event shall go to one or more charitable nonprofit organizations(s).
  - 3. Adequate parking must be available for the fund-raising event. If outdoor events occupy more than 25% of the area normally used for parking, creating the need for off-site parking and the possibility of traffic or safety hazards, Town officials shall be notified to determine if Town services are required. If the Town Manager or authorized designee determines that Town services are required, the fundraising event shall be subject to a special event permit.
  - 4. Signs must comply with the sign regulations as designated in Chapter 6 of the Zoning Ordinance for the Town of Fountain Hills.
  - 5. If the fundraising event involves an activity that would typically require a temporary use permit under the Town's Zoning Ordinance, a temporary use permit must be obtained prior to the event.
- G. A governmental, educational or religious organization acting within the normal course and scope of its typical functions or activities.  
(Ordinance 11-13, Amended, 11/03/2011, Deleted and replaced; Ordinance 01-09, Added, 05/17/2001, Adopted)

### **Section 8-3-5 Applications**

- A. Applications for special event permits shall be made on forms furnished by the Town. Every application shall be accompanied by the appropriate application fee in an amount set forth in the Town's fee schedule, as adopted by the Town Council as part of the Town's annual budget or by separate resolution.
- B. If the event is designed to be held by or for any person other than applicant, the applicant for such permit shall file with the application a communication in writing from the person proposing to hold the event, authorizing the applicant to apply for the permit on his behalf.
- C. All applications for special events must be completed and submitted to the Town no less than 45 days prior to the event in order to be considered for scheduling on the special event calendar as

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outlined in Section 8-3-8 below.

- D. The application for a special event permit shall set forth, at a minimum, the following information:
1. The name, street address, telephone number and email address of the person seeking to conduct the special event.
  2. If the event is to be conducted for, on behalf of, or by an organization or business, the name, physical address and telephone number of the headquarters of the organization, the names of the principal persons responsible for the organization, the federal tax ID number of the organization, and email addresses for the principal contacts of the organization.
  3. The name, physical address, work and home telephone numbers and e-mail address of the on-site event manager.
  4. The name, physical address, telephone number and email address of the promoter and sponsor of the event, if different than the applicant.
  5. If the special event involves sponsorship or participation of a charitable non-profit organization, the organization's name, federal tax ID number or determination of tax exempt status, physical address, telephone number and email address.
  6. The name of the special event and the location where the event is to take place. If the event is on private property, the property owner's name, telephone number, email address, and a written acknowledgement from the owner granting permission use of the property. If applicable, the location shall include the route to be traveled, the starting and termination points, and any closures of streets, sidewalks or rights-of-way requested. A site plan of the special event area must be included with the application.
  7. A parking plan showing available parking that is adequate to accommodate the anticipated attendees of the event. If parking is to be on private property, written proof of permission of the property owner must be included with the application. Parking on the property must be adequate to serve any existing permanent uses as well as the special event use.
  8. A description of the special event including activities, anticipated attendance, entertainment, and type of retail sales, if any. If there will be vendors, artists or concessionaires, supply a list including business names, owner names, booth numbers, addresses and Arizona state sales tax numbers. Any changes or additions shall be submitted to the Town prior to the end of the first day of the special event.
  9. The date and hours when the special event is to be conducted.
  10. The time at which persons participating in the event are expected to begin to assemble or set up for the event.
  11. The approximate number of persons, vehicles and equipment, if any, that will be involved in the special event, including, without limitation, description of the vehicles or equipment. If animals are to be included in the event, the applicant must specify the types of animals to be included, the areas to be used as pens for the animals and any



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vehicles to be used for transporting the animals.

12. Information regarding the amount and type of advertising that will be done to promote the special event.
13. Information on specific features of the event including, but not limited to, tents, canopies, open flames and cooking, fireworks, temporary fencing, temporary structures, first aid services, port-a-johns, waste control, generators, carnival/amusement rides, lighting, signs/banners, and inflatables. Information should include the company name, physical address, contact name, telephone number and email address of each service provider. Event features may require inspection and/or special permits from building, engineering, fire, and/or health departments. The site of the event must be adequately served by utilities and sanitary facilities.
14. Description and location of Town infrastructure (i.e. electric and/or water) that will be needed for the special event.
15. A map and/or site plan clearly depicting the location of all signage, directional and/or promotional, that will be used in conjunction with the special event, as well as a plan for ensuring signage shall not be posted earlier than two weeks prior to the first day of the event and must be removed within 48 hours following the event's conclusion.
16. Information on event security and emergency medical services including company names, physical addresses, contacts, telephone numbers, e-mail addresses and scheduled hours personnel will be at the special event.
17. Information regarding the serving of alcohol, if any, at the event and copies of the appropriate state liquor licenses, where applicable.
18. An estimate of all non-permit fees anticipated in connection with the special event, as detailed in Section 8-3-6 of this Article. All applicable Town Departments shall review the application and recommend stipulations that must be met by the applicant, at his own cost, to insure the health, safety and welfare of the public. Each Town Department shall provide cost estimates or services to be provided in connection with the special event. These fees, where applicable, include but are not limited to fees for law enforcement, traffic engineering services, field services, cleaning/damage deposits, and building safety inspections.
19. A certificate of insurance naming the Town as an additional insured must be on file with the Town at least ten days prior to the start of the special event. Such insurance is to be in amounts determined necessary by the Town Manager, but in no event less than \$1 million combined single limit personal injury and property damage covering owned and non-owned auto liability, premise liability and comprehensive general, including product liability where indicated. An additional liquor legal liability policy, in an amount approved by the Town Manager, naming the Town as an additional insured, will be required for events serving liquor. Additional general liability insurance coverage, in an amount to be determined by the Town Manager, but in no event less than \$1 million per occurrence, is required from all carnival and amusement companies. All insurance shall be provided by companies licensed to do business, in Arizona.
20. A certification statement including a liability release and indemnification agreement

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signed by an authorized agent. The statement shall include the applicant's acknowledgment that all transactions in the course of the special event are subject to any applicable Town, county and/or state sales tax and assurance that all event participants shall be notified regarding sales tax regulations.

(Ordinance 11-13, Amended, 11/03/2011, Deleted and replaced; Ordinance 01-09, Added, 05/17/2001, Adopted)

### **Section 8-3-6 Fees and Deposits**

Any application for a special event, including special events held by charitable nonprofit organizations, will be subject to the applicable deposits and fees in amounts set forth on the fee schedule approved by the Town Council as part of the Town's annual budget or by separate resolution, as follows:

- A. A non-refundable application fee shall be submitted with each special event application. Applications received without the application fee will not be accepted. A commercial event sharing sponsorship with a charitable nonprofit organization shall not be exempt from the application fee set forth in this subsection.
- B. If an event application is approved by the Town Manager for inclusion on the special event calendar, the applicant shall deposit it with the Town an amount of money equal to the estimate of all non-permit fees submitted with the application as specified in Section 8-3-5(D)(18) of this Article. These fees may include but are not limited to law enforcement, traffic engineering, field services, cleaning/damage deposit, and building safety. The purpose of said fees is to fully compensate the Town for any personnel, equipment and other Town-borne expenses relating to processing and accommodating a special event. Local charitable nonprofit organizations are exempt from non-permit fees except cleaning/damage deposits and rental fees, where applicable. The Town reserves the right to require charitable nonprofit organizations to obtain services such as law enforcement, security, emergency medical, traffic engineering, etc. to ensure that public safety standards are met. This exemption does not apply to commercial events sharing sponsorship with charitable nonprofit organizations.
  - 1. Deposits pursuant to this subsection shall be paid to the Town not later than ten days prior to the special event. If the deposits and fees are not received within the specified time, the event will be administratively removed from the calendar and the special event will be canceled.
  - 2. A post-event Town expenditure review shall be conducted to determine the Town's actual event-related expenses. Depending on the results of this review and subsequent reconciliation, the Town shall refund any monies received by the applicant in excess of the actual amount expended by the Town or shall invoice the applicant for any additional Town-incurred costs not covered by the estimated deposit.

(Ordinance 11-13, Amended, 12/20/2011, Deleted and replaced; 09-08, Amended, 07/02/2009; 01-09, Added, 05/17/2001, Adopted)

### **Section 8-3-7 Criteria for review and approval**

- A. The Special Event Committee shall make recommendations to the Town Manager regarding all special event applications. Special Event Committee recommendations must be completed and submitted to the Town Manager not less than 20 calendar days prior to the event in order to be considered for scheduling on the special event calendar. In the event that the Special Event

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Committee fails to act within 20 calendar days, the special event application shall be deemed denied and forwarded to the Town Manager pursuant to Subsection B, below. In order to recommend approval of an application, the Special Event Committee shall include, at a minimum, findings that each of the following criteria has been met:

1. The event provides for the participation of local non-profit organizations that significantly benefit from the special event and which, in turn, share those benefits with the community.
  2. The special event is widely attended and supported by the Fountain Hills community.
  3. The conduct of the special event, including street closures, detours and/or disruptions, will not substantially interrupt the safe and orderly movement of other traffic contiguous to its location or route.
  4. The nature, scope, location, and conduct of the special event are not reasonably likely to cause injury to persons or property or create a hazard to the health, safety and welfare of the public and the surrounding properties or land uses.
  5. The special event is consistent and/or compatible with other uses permitted in the zoning district and with community interests.
  6. The special event generates significant sales tax revenue for the Town of Fountain Hills to be used for community priorities.
  7. The special event application has been thoroughly completed, all requirements therein have been satisfactorily met and application fees have been submitted to the Town.
  8. The conduct of the special event does not required the diversion of so great a number of Town staff to prevent normal service to the Town or of law enforcement officers to prevent normal law enforcement protection to the Town.
- B. The Town Manager shall approve, approve with stipulations or deny the special event request within ten calendar days of receipt of an application from the Special Event Committee. In the event that the Town Manager does not approve, approve with stipulations or deny the special event within ten calendar days of receipt of a recommendation, the special event application shall be deemed denied.
- C. An applicant whose special event request is denied by the Town Manager may appeal to the Town Council for reconsideration. The Town Council shall approve, approve with stipulations or deny the special event request after consideration of same at a public meeting of the Town Council.

(Ordinance 11-13, Amended, 11/03/2011, 8-3-7 Heading revised was: Major Event Calendar; Deleted and replaced; Ordinance 01-09, Added, 05/17/2001, Adopted)

### **Section 8-3-8                      Event calendar**

The following calendar is hereby established for special events:

- A. Throughout the year the Town Council shall receive and consider properly processed special

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event applications for inclusion on the major event calendar. The calendar will be for a one-year period commencing on January 1 and concluding on December 31.

- B. The event calendar shall include no more than 12 non-holiday events within each one-year period.
- C. Holiday events and grandfathered events shall automatically be scheduled on the major event calendar on their regularly scheduled dates. Inclusion on the calendar does not exempt the event sponsor from submitting a special event request and receiving the required approval.
- D. Two or more separate events may not occupy the same location on the same calendar day. Event organizers may coordinate and combine their events and jointly file a special event application. Each separate organizer shall comply with all requirements of the special event application.

(Ordinance 11-13, Amended, 11/03/2011, Heading revised was: Criteria for Staff Recommendation and Town Council Approval, Deleted and replaced; Ordinance 01-09, Added, 05/17/2001, Adopted)

## Article 8-4

### SALE OF PRODUCTS CONTAINING EPHEDRINE OR PSEUDOEPHEDRINE

#### Sections:

<b>8-4-1</b>	<b>Definitions</b>
<b>8-4-2</b>	<b>Restricted Access to Products Containing Ephedrine or Pseudoephedrine</b>
<b>8-4-3</b>	<b>Identification of Purchasers; Recordkeeping</b>
<b>8-4-4</b>	<b>Violation; Penalty</b>

#### **Section 8-4-1 Definitions**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context indicates a different meaning:

"Ephedrine or Pseudoephedrine" means any product containing ephedrine or pseudoephedrine including any compound, mixture or preparation that contains any detectable quantity of ephedrine, pseudoephedrine, norpseudoephedrine and/or phenylpropanolamine or their salts, optical isomers or salts of optical isomers. Product packaging that lists ephedrine, pseudoephedrine, norpseudoephedrine and/or phenylpropanolamine as an active ingredient shall constitute prima facie evidence that it is a product containing ephedrine or pseudoephedrine.

"Retailer" means any corporation, company, partnership, firm, association or other commercial entity, including a natural person, and its employees, agents or members that have responsibility for the operations of a retail establishment.

(06-18, Added, 06/15/2006)

#### **Section 8-4-2 Restricted Access to Products Containing Ephedrine or Pseudoephedrine**

Retailers selling products containing ephedrine, pseudoephedrine, norpseudoephedrine and/or phenylpropanolamine shall secure such products behind a counter or otherwise in a manner by which customers do not have direct access to such products without the assistance of the retailer. Such products shall be monitored by the retailer to prevent theft, or unauthorized or uncontrolled purchases.

(06-18, Added, 06/15/2006)

#### **Section 8-4-3 Identification of Purchasers; Recordkeeping**

- a) Retailers making a sale of a product containing ephedrine, pseudoephedrine, norpseudoephedrine and/or phenylpropanolamine shall (1) require a government issued photo identification from the purchaser, (2) record in a Purchaser Log, the purchaser's name, the document type and document number of the photo identification submitted by the purchaser, the date of transaction and quantity of ephedrine, pseudoephedrine, norpseudoephedrine and/or phenylpropanolamine product purchased and (3) require that the purchaser sign the Purchaser Log with a signature consistent with the identification provided. The retailer shall take all steps reasonably necessary to ensure that the purchaser is unable to view the information provided by any other purchaser, either by keeping a separate log for signatures or by otherwise entirely obscuring the area of the Purchaser Log containing the identification information of other purchasers.

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- b) The Purchaser Log shall be kept confidential and secure from unauthorized public access and shall be made available, upon written request, only to law enforcement personnel (local, state, or federal) and others authorized by law or court order to receive such information. The Purchaser Log shall be maintained for a period of one year unless otherwise directed by law enforcement personnel, applicable law or court order.

(06-18, Amended, 06/15/2006, added the text: norpseudoephedrine and/or; 06-18, Added, 06/15/2006)

### **Section 8-4-4                      Violation; Penalty**

Any person found guilty of violating any provisions of this article shall be guilty of a civil violation and shall be subject to a base civil penalty of not more than two thousand five hundred dollars (\$2,500). Each day that a violation continues shall be a separate offense subject to the civil penalty as hereinabove described. The court shall not suspend any portion of the civil penalty provided by this section.

(06-18, Added, 06/15/2006)

**Article 8-5**

**ADULT BUSINESS LICENSE REGULATIONS**

**Sections:**

<b>8-5-1</b>	<b>Purpose</b>
<b>8-5-2</b>	<b>License Required</b>
<b>8-5-3</b>	<b>Issuance of License</b>
<b>8-5-4</b>	<b>Fees</b>
<b>8-5-5</b>	<b>Inspection</b>
<b>8-5-6</b>	<b>Expiration of License</b>
<b>8-5-7</b>	<b>Suspension</b>
<b>8-5-8</b>	<b>Denial or Revocation</b>
<b>8-5-9</b>	<b>Transfer of License</b>

**Section 8-5-1 Purpose**

For the purposes of this Article, the defined terms set forth in Chapter 21 of the Town of Fountain Hills Zoning Ordinance shall apply.  
(Ordinance 07-09, Added, 10/18/2007, Adopted)

**Section 8-5-2 License Required**

- A. It is unlawful:
1. For any person to operate an adult business without a valid adult business license issued by the Town pursuant to this code.
  2. For any person who operates an adult business to employ a person to work for the adult business who is not licensed as an adult business employee by the Town pursuant to this code.
  3. For any person to obtain employment with an adult business without having secured an adult business employee license pursuant to this code.
- B. An application for a license must be made on a forms provided by the Town.
- C. All applicants must be qualified according to the provisions of this code. The application may request and the applicant shall provide such information (including fingerprints) as to enable the Town to determine whether the applicant meets the qualifications established in this code.
- D. A person, who wishes to operate an adult business must sign the application for a license as an applicant. If a person other than an individual wishes to operate an adult business, all persons legally responsible for the operations of the sexually oriented business or who have power to control or direct its operations must sign the application for a license as applicant. Such persons include, but are not limited to, general partners, corporate officers, corporate directors, and controlling shareholder(s). Each application must be qualified under the following section and each applicant shall be considered a licensee if a license is granted.

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- E. The completed application for an adult business license shall contain the following information and shall be accompanied by the following documents or information:
1. If the applicant is:
    - a. An individual, the individual shall state his/her legal name and any aliases and submit proof that he/she is 18 years of age.
    - b. A partnership, the partnership shall state its complete name, and the names of all partners, whether the partnership is general or limited, and a copy of the partnership agreement, if any.
    - c. A corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of its state of incorporation, the names and capacity of all officers, directors and controlling stockholders, and the name of the registered corporate agent and the address of the registered office for service of process.
  2. If the applicant intends to operate the adult business under a name other than that of the applicant; he or she must state (a) the adult business's fictitious name and (b) submit the required registration documents.
  3. Whether the applicant, or a person residing with the applicant, has been convicted of a specified criminal activity as defined in this code, and, if so, the specified criminal activity involved, the date, place, and jurisdiction of each.
  4. Whether the applicant, or a person residing with the applicant, has had a previous license under this ordinance or other similar adult business ordinances from another city or county denied, suspended or revoked, including the name and location of the adult business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant or a person residing with the applicant has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is licensed under this code whose license has previously been denied, suspended or revoked, including the name and location of the adult business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.
  5. Whether the applicant or a person residing with the applicant holds any other licenses under this code or other similar adult business ordinance from another city or county and, if so, the names and locations of such other licensed businesses.
  6. The single classification of license for which the applicant is filing.
  7. The location of the proposed adult business, including a legal description of the property, street address, and telephone number(s), if any.
  8. The applicant's mailing address and residential address.
  9. A recent photograph of the applicant(s).
  10. The applicant's valid driver's license number.



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11. A floor plan or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The floor plan or diagram must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises.
  12. A property survey prepared within 30 days prior to application by a registered land surveyor depicting the property lines of any established uses identified under Section 21-1-3 of the Fountain Hills Zoning Ordinance within the distances set forth in Section 21-1-3 in relation to the property to be certified. For purposes of this Section, a use shall be considered existing or established if it is in existence at the time an application is submitted.
  13. If an applicant wishes to operate an adult business, other than an adult motel, which intends to exhibit on the premises, in a viewing room or booth of less than 150 square feet of floor space, films, electronic video media, other video reproductions, or live entertainment which depict specified sexual activities or specified anatomical areas, then the applicant shall comply with the application requirements set forth in Section 21-1-5 of the Fountain Hills Zoning Ordinance.
- F. Before any applicant may be issued an adult business employee license, the applicant shall submit on a form to be provided by the Town the following information:
1. The applicant's name or any other name (including stage aliases used by the individual).
  2. A certified copy or original birth certificate showing date and place of birth as proof that individual is at least 18 years of age.
  3. Height, weight, hair and eye color.
  4. Present residence address and telephone number.
  5. Present business address and telephone number.
  6. Date, issuing state and number of driver's license or other identification card information.
- G. Attached to the application form for an adult business employee license as provided above, shall be the following:
1. A color photograph of the applicant clearly showing the applicant's face, and the applicant's fingerprints on a form provided by the Town's law enforcement department. Any fees for the photographs and fingerprints shall be paid by the applicant.
  2. A statement detailing the license history of the applicant for the five (5) years immediately preceding the date of the filing of the application, including whether such applicant (a) previously operated or is seeking to operate, in this or any other county, city, state, or country an adult business, (b) has ever had a license, permit, or authorization to do business denied, revoked, or suspended or (c) had any professional or vocational license or permit denied, revoked, or suspended. In the event of any such denial, revocation, or suspension, state the name, the name of the issuing or denying jurisdiction, and describe in full the reason for the denial, revocation, or suspension. A copy of any order of denial, revocation, or suspension shall be attached to the application.

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3. A statement whether the applicant has been convicted of a specified criminal activity as defined in this code and, if so, the specified criminal activity involved, the date, place and jurisdiction of each.

(Ordinance 07-09, Added, 10/18/2007, Adopted)

### **Section 8-5-3 Issuance of License**

- A. For an adult business employee license, the application shall be referred to the appropriate Town departments for an investigation to be made on such information as is contained on the application. The application process shall be completed within 60 days from the date the completed application is filed. If the Town fails to approve or deny the license within 60 days after receipt of an application, the license shall be deemed to have been approved. After the investigation, the Town shall issue a license, unless it is determined by a preponderance of the evidence that at least one or more of the following findings is true:
  1. The applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.
  2. The applicant is under the age of 18 years.
  3. The applicant has been convicted of a specified criminal activity as defined in this code.
  4. The adult business employee license is to be used for employment in a business prohibited by federal, local or state law, statute, rule or regulation, or prohibited by a particular provision of this ordinance.
  5. The applicant has had an adult business employee license revoked by the Town within two (2) years of the date of the current application. Denial, suspension, or revocation of a license issued pursuant to this subsection shall be subject to appeal as set forth in Section 8-4-8.
- B. A license granted pursuant to this section shall be subject to annual renewal upon the written application of the applicant and a finding by the Town that the applicant has not been convicted of any specified criminal activity as defined in this code or committed any act during the existence of the previous license, which would be grounds to deny the initial license application. The renewal of the license shall be subject to the payment of the fee as set forth in Section 8-4-4.
- C. 30 days prior to the expiration of a license, an applicant must submit a completed adult business application for renewal. The Town shall approve the issuance of a renewed license to an applicant unless it is determined by a preponderance of the evidence that at least one of the following findings is true:
  1. An applicant is under 18 years of age.
  2. An applicant or a person with whom the applicant is residing is overdue in payment to the Town of taxes, fees, fines, or penalties assessed against or imposed upon him/her in relation to any business.
  3. An applicant has failed to provide information reasonably necessary for issuance of the

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license or has falsely answered a question or request for information on the application form.

4. An applicant or a person with whom the applicant is residing has been denied a license by the Town to operate a sexually oriented business within the preceding 12 months or whose license to operate a sexually oriented business has been revoked within the preceding 12 months.
  5. An applicant or a person with whom the applicant is residing has been convicted of a specified criminal activity as defined in this code.
  6. The premises to be used for the adult business have not been approved by the Maricopa County health department, the Town fire department, and the Town building official as being in compliance with applicable laws and ordinances.
  7. The license fee required by this ordinance has not been paid.
  8. An applicant of the proposed establishment is in violation of or is not in compliance with any of the provisions of this code.
- D. The license, if granted shall state on its face the name of the person or persons to whom it is granted, the expiration date, the address of the adult business and the classification for which the license is issued. All licenses shall be posted in a conspicuous place at or near the entrance to the adult business so that they may be easily read at any time.
- E. The Maricopa County health department, the Town fire department, and the Town building official shall complete their certification that the premises is in compliance or not in compliance within 20 days of receipt of the application by the Town.
- F. An adult business license shall issue for only one classification as found in Section 21-1-2 of the Fountain Hills Zoning Ordinance.
- G. If a permit is issued, the Town shall issue an identification card. The identification card shall include the name of the licensee, a photograph of the licensee, the number of the permit, and the dates of issuance and expiration.

(Ordinance 07-09, Added, 10/18/2007, Adopted)

### **Section 8-5-4 Fees**

- A. Every application for an adult business license (whether for a new license or for renewal of an existing license) shall be accompanied by a non-refundable application and investigation fee or such other fee as established by the Council as part of its annual budget or by separate resolution.
- B. In addition to the application and investigation fee required above, every adult business that is granted a license (new or renewal) shall pay to the Town an annual nonrefundable license fee upon license issuance or renewal or such other fee as established by the Council as part of its annual budget or by separate resolution.
- C. Every application for an adult business employee license (whether for a new license or for renewal of an existing license) shall be accompanied by an annual nonrefundable application,

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investigation, and license fee or such other fee as established by the Council as part of its annual budget or by separate resolution.

D. All license applications and fees shall be submitted to the Fountain Hills Town Clerk.

(09-08, Amended, 07/02/2009; 07-09, Added, 10/18/2007, Adopted)

### **Section 8-5-5 Inspection**

- A. An applicant or licensee shall permit representatives of the Town Law Enforcement Department, Fire Department, Zoning Department, or other Town departments, agencies or agents to conduct lawful inspections of the premises of an adult business for the purpose of ensuring compliance with the law, at any time it is occupied or open for business.
- B. A person who operates an adult business or his agent or employee commits a Class 1 misdemeanor if he refuses to permit such lawful inspection of the premises at any time it is open for business.

(Ordinance 07-09, Added, 10/18/2007, Adopted)

### **Section 8-5-6 Expiration of License**

- A. Each license shall expire one year from the date of issuance and may be renewed only by making application as provided in Section 8-4-3. Application for renewal shall be made at least 30 days before the expiration date, and when made less than 30 days before the expiration date, the expiration date of the license will not be affected. Any applicant whose license has expired must cease any activities permitted under the license until such time as a renewed license is issued.
- B. When the Town denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the Town finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date denial became final.

(Ordinance 07-09, Added, 10/18/2007, Adopted)

### **Section 8-5-7 Suspension**

The Town shall suspend a license for a period not to exceed 30 days if it determines that a licensee or an employee of a licensee has either (A) violated or is not in compliance with any section of this ordinance or (B) refused to allow an inspection of the adult business premises as authorized by this Article.

(Ordinance 07-09, Added, 10/18/2007, Adopted)

### **Section 8-5-8 Denial or Revocation**

- A. The Town shall deny or revoke a license if a cause of suspension under Section 8-4-7 occurs twice within any 12 month period.
- B. The Town shall deny or revoke a license if it determines that any of the following have occurred:
  - 1. A licensee gave false or misleading information in the material submitted during the

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application process.

2. A licensee has knowingly allowed possession, use, or sale of controlled substances on the premises.
  3. A licensee has knowingly allowed prostitution on the premises.
  4. A licensee knowingly operated the adult business during a period of time when the licensee's license was suspended or expired.
  5. Except in the case of an adult motel, a licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sex act to occur in or on the licensed premises.
  6. A licensee is delinquent in payment to the Town, County, or State for any taxes or fees past due.
- C. If the Town determines that grounds exist to deny or revoke a license under this Article, the Town shall notify the applicant, licensee in writing of the intent to deny or revoke, including the grounds therefore.
- D. Within ten work days of receipt of such notice, the recipient may respond to the notice in writing, stating the reasons why the license should not be denied or revoked. If the Town does not receive a response in the time required, the Town's notice shall be the final administrative action of denial or revocation. The Town shall send an additional notice to confirm the denial or revocation notice within five business days after the time to respond expires.
- E. If the Town receives a response, within ten business days of receipt, the Town shall either (1) notify the applicant, or licensee of the Town's withdrawal of the intent to deny or revoke or (2) notify the applicant, or licensee of the date, time and place for a hearing before the Town Council.
- F. If the Town fails to send a timely notification either withdrawing the intent to deny or revoke or scheduling a hearing, a decision in favor of the applicant or licensee is deemed made.
- G. The hearing shall be conducted not less than 15 nor more than 20 work days after the Town's receipt of the response. The hearing shall be conducted in an informal manner. Both parties may be represented by counsel and present evidence. The Town bears the burden of proving the grounds to deny or revoke a license. The formal rules of evidence shall not apply.
- H. Within five business days after the hearing, the Town Council shall issue a written decision, including the grounds for the decision, and shall mail the decision to the applicant, or licensee. The decision shall include information advising the applicant or licensee of any right to challenge the decision in any court. If more than 45 days elapse between the Town's receipt of a response and the Town Council sending the final decision, a decision in favor of the applicant, or licensee shall be deemed made.
- I. If the Town Council finds no grounds to deny the license, the Town shall issue the license. If the Town Council finds no grounds to revoke the license, the Town shall withdraw the intent to revoke and deem the license valid. The Town shall take action required under this subsection within five business days of the Town Council's decision.

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- J. In the case of an intent to deny or revoke a license, the licensee may continue to operate for 15 days after the decision becomes final. The decision shall be deemed final at the end of five work days after it is mailed and shall constitute final administrative action.
- K. All notices under this section shall be sent by certified mail to the applicant, or licensee's address on file with the Town.
- L. When the Town revokes a license, the revocation shall continue for one year, and the licensee shall not be issued an adult business license for one year from the date the revocation became effective. If, subsequent to revocation, the Town finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the revocation became effective.

(Ordinance 07-09, Added, 10/18/2007, Adopted)

### **Section 8-5-9                      Transfer of License**

A licensee shall not transfer his/her license to another, nor shall a licensee operate an adult business under the authority of a license at any place other than the address designated in the application.

(Ordinance 07-09, Added, 10/18/2007, Adopted)